

103D CONGRESS
2D SESSION

S. 2500

AN ACT

To enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

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To enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sheep Promotion, Re-
5 search, and Information Act of 1994”.

1 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

2 (a) FINDINGS.—Congress finds that—

3 (1) sheep and sheep products are important
4 goods;

5 (2) the production of sheep and sheep products
6 play a significant role in the economy of the United
7 States in that sheep and sheep products are pro-
8 duced throughout the United States and used by
9 millions of people throughout the United States and
10 foreign countries;

11 (3) sheep and sheep products must be high
12 quality, readily available, handled properly, and mar-
13 keted efficiently to ensure that consumers have an
14 adequate supply of sheep products;

15 (4) the maintenance and expansion of existing
16 markets and development of new markets for sheep
17 and sheep products are vital to the welfare of sheep
18 producers and persons concerned with marketing,
19 using, and producing sheep and sheep products, as
20 well as to the general economy of the United States,
21 and necessary to ensure the ready availability and
22 efficient marketing of sheep and sheep products;

23 (5) there exist established State organizations
24 conducting sheep and sheep product promotion, re-
25 search, and industry and consumer education pro-

1 grams that are invaluable to the efforts of promoting
2 the consumption of sheep and sheep products;

3 (6) the cooperative development, financing, and
4 implementation of a coordinated national program of
5 sheep and sheep product promotion, research,
6 consumer information, education, and industry infor-
7 mation are necessary to maintain and expand exist-
8 ing markets and develop new markets for sheep and
9 sheep products; and

10 (7) sheep and sheep products move in interstate
11 and foreign commerce, and sheep and sheep prod-
12 ucts that do not move in such channels of commerce
13 directly burden or affect interstate commerce in
14 sheep and sheep products.

15 (b) POLICY.—It is the policy of Congress that it is
16 in the public interest to authorize the establishment,
17 through the exercise of the powers provided in this Act,
18 of an orderly procedure for developing, financing (through
19 adequate assessments on sheep and sheep products pro-
20 duced or imported into the United States), and carrying
21 out an effective, continuous, coordinated program of pro-
22 motion, research, consumer information, education, and
23 industry information designed to—

24 (1) strengthen the position of the sheep and
25 sheep product industry in the marketplace;

1 (2) maintain and expand existing domestic and
2 foreign markets and uses for sheep and sheep prod-
3 ucts; and

4 (3) develop new markets and uses for sheep and
5 sheep products.

6 (c) CONSTRUCTION.—Nothing in this Act provides
7 for the control of production, or otherwise limits, the right
8 of any person to produce sheep or sheep products.

9 **SEC. 3. DEFINITIONS.**

10 As used in this Act (unless the context clearly re-
11 quires otherwise):

12 (1) BOARD.—The term “Board” means the Na-
13 tional Sheep Promotion, Research, and Information
14 Board established under section 5(b).

15 (2) CARBONIZED WOOL.—The term “carbonized
16 wool” means wool that has been immersed in a bath,
17 usually of mineral acids or acid salts, that destroys
18 vegetable matter in the wool, but does not affect the
19 wool fibres.

20 (3) CONSUMER INFORMATION.—The term
21 “consumer information” means nutritional data and
22 other information that will assist consumers and
23 other persons in making evaluations and decisions
24 regarding the purchase, preparation, or use of sheep
25 products.

1 (4) CUSTOMS SERVICE.—The term “Customs
2 Service” means United States Customs Service of
3 the Department of the Treasury.

4 (5) DEGREASED WOOL.—The term “degreased
5 wool” means wool from which the bulk of impurities
6 has been removed by processing.

7 (6) DEPARTMENT.—The term “Department”
8 means the United States Department of Agriculture.

9 (7) EDUCATION.—The term “education” means
10 activities providing information relating to the sheep
11 industry or sheep products to producers, feeders, im-
12 porters, consumers, and other persons.

13 (8) EXECUTIVE COMMITTEE.—The term “Exec-
14 utive Committee” means the Executive Committee
15 established under section 5(g).

16 (9) EXPORTER.—The term “exporter” means
17 any person who exports domestic live sheep or
18 greasy wool from the United States.

19 (10) FEEDER.—The term “feeder” means a
20 person who feeds lambs until the lambs reach
21 slaughter weight.

22 (11) GREASY WOOL.—The term “greasy wool”
23 means wool that has not been washed or otherwise
24 cleaned.

1 (12) HANDLER.—The term “handler” means
2 any person who purchases and markets greasy wool.

3 (13) IMPORTER.—The term “importer” means
4 any person who imports sheep or sheep products
5 into the United States.

6 (14) INDUSTRY INFORMATION.—The term “in-
7 dustry information” means information and pro-
8 grams that will lead to increased efficiency in proc-
9 essing and the development of new markets, market-
10 ing strategies, increased marketing efficiency, and
11 activities to enhance the image of sheep or sheep
12 products on a national or international basis.

13 (15) ORDER.—The term “order” means a
14 sheep and wool promotion, research, education, and
15 information order issued under section 4.

16 (16) PERSON.—The term “person” means any
17 individual, group of individuals, partnership, cor-
18 poration, association, cooperative, or any other legal
19 entity.

20 (17) PROCESSOR.—The term “processor”
21 means any person who slaughters sheep or processes
22 greasy wool into degreased wool.

23 (18) PRODUCER.—The term “producer” means
24 any person, other than a feeder, who owns or ac-
25 quires ownership of sheep.

1 (19) PRODUCER INFORMATION.—The term
2 “producer information” means activities designed to
3 provide producers, feeders, and importers with infor-
4 mation relating to production or marketing effi-
5 ciencies or developments, program activities, or other
6 information that would facilitate an increase in the
7 consumption of sheep or sheep products.

8 (20) PROMOTION.—The term “promotion”
9 means any action (including paid advertising) to ad-
10 vance the image and desirability of sheep or sheep
11 products to improve the competitive position, and
12 stimulate sales, of sheep products in the domestic
13 and international marketplace.

14 (21) PULLED WOOL.—The term “pulled wool”
15 means wool that is pulled from the skin of a slaugh-
16 tered sheep.

17 (22) QUALIFIED STATE SHEEP BOARD.—The
18 term “qualified State sheep board” means a sheep
19 and wool promotion entity that—

20 (A) is authorized by State statute or is
21 otherwise organized and operating within a
22 State;

23 (B) receives voluntary contributions or
24 dues and conducts promotion, research, or

1 consumer information programs with respect to
2 sheep or wool, or both; and

3 (C) is recognized by the Board as the
4 sheep and wool promotion entity within the
5 State;

6 except that not more than 1 qualified State sheep
7 board shall exist in any State at any 1 time.

8 (23) RAW WOOL.—The term “raw wool” means
9 greasy wool, pulled wool, degreased wool, or carbon-
10 ized wool.

11 (24) RESEARCH.—The term “research” means
12 development projects and studies relating to the pro-
13 duction (including the feeding of sheep), processing,
14 distribution, or use of sheep or sheep products to en-
15 courage, expand, improve, or make more efficient
16 the marketing of sheep or sheep products.

17 (25) SECRETARY.—The term “Secretary”
18 means the Secretary of Agriculture.

19 (26) SHEEP.—The term “sheep” means ovine
20 animals of any age, including lambs.

21 (27) SHEEP PRODUCTS.—The term “sheep
22 products” means products produced, in whole or in
23 part, from sheep, including wool and products con-
24 taining wool fiber.

1 (28) STATE.—The term “State” means each of
2 the 50 States.

3 (29) UNIT.—The term “unit” means each
4 State, group of States, or class designation that is
5 represented on the Board.

6 (30) UNITED STATES.—The term “United
7 States” means the 50 States and the District of Co-
8 lumbia.

9 (31) WOOL.—The term “wool” means the fiber
10 from the fleece of a sheep.

11 (32) WOOL PRODUCTS.—The term “wool prod-
12 ucts” means products produced, in whole or in part,
13 from wool and products containing wool fiber.

14 **SEC. 4. ISSUANCE AND AMENDMENT OF ORDERS.**

15 (a) IN GENERAL.—Subject to subsection (b), the Sec-
16 retary shall issue orders under this Act applicable to pro-
17 ducers, feeders, importers, handlers, and purchasers of
18 sheep and sheep products. Any order shall be national in
19 scope. Not more than 1 order shall be in effect under this
20 Act at any 1 time.

21 (b) PROCEDURE.—

22 (1) PROPOSAL OR REQUEST FOR ISSUANCE.—
23 The Secretary may propose the issuance of an order
24 under this Act, or an association of producers may

1 request the issuance of, and submit a proposal for,
2 an order.

3 (2) NOTICE AND COMMENT CONCERNING PRO-
4 POSED ORDER.—Not later than 60 days after the re-
5 ceipt of a request and proposal for an order under
6 paragraph (1), the Secretary shall publish a pro-
7 posed order and give due notice and opportunity for
8 public comment on the proposed order.

9 (3) ISSUANCE OF ORDERS.—After notice and
10 opportunity for public comment are given as pro-
11 vided in paragraph (2), the Secretary shall issue an
12 order, taking into consideration the comments re-
13 ceived, that includes provisions necessary to ensure
14 that the order is in conformity with this Act. The
15 order shall be issued not later than 180 days follow-
16 ing publication of the proposed order.

17 (4) REFERENDUM.—The order shall go into ef-
18 fect only if the order is approved by producers, feed-
19 ers, and importers in a referendum conducted under
20 section 6.

21 (c) AMENDMENTS.—The Secretary, from time to
22 time, may amend any order issued under this Act.

1 **SEC. 5. REQUIRED TERMS IN ORDERS.**

2 (a) IN GENERAL.—An order issued under this Act
3 shall contain the terms and conditions specified in this sec-
4 tion.

5 (b) ESTABLISHMENT AND MEMBERSHIP OF
6 BOARD.—

7 (1) IN GENERAL.—The order shall provide for
8 the establishment of, and appointment of members
9 to, a National Sheep Promotion, Research, and In-
10 formation Board to administer the order. Members
11 of the Board shall be appointed by the Secretary
12 from nominations provided in accordance with this
13 subsection. The cumulative number of seats on the
14 Board shall be 120 and shall be apportioned as fol-
15 lows:

1 (A) PRODUCERS.—Producers shall be ap-
 2 pointed to the Board to represent States, with
 3 each State represented by the following number
 4 of members:

Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2
Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

1 (B) FEEDERS.—The feeder sheep industry
2 shall be represented on the Board by 10 mem-
3 bers.

4 (C) IMPORTERS.—Importers shall be rep-
5 resented on the Board by 25 members.

6 (D) ALTERNATES.—The order shall pro-
7 vide that a unit represented by only 1 member
8 may have an alternate member appointed to en-
9 sure representation at meetings of the Board.

10 (2) NOMINATIONS.—

11 (A) PRODUCERS.—The Secretary shall ap-
12 point producers to represent units established
13 under paragraph (1)(A) from nominations sub-
14 mitted by eligible organizations certified under
15 subsection (c)(3). An eligible organization may
16 submit only nominations from the membership
17 of the organization for the unit in which the or-
18 ganization is located. To be represented on the
19 Board, each eligible organization shall submit
20 to the Secretary at least 1.5 nominations for
21 each appointment to the Board for which the
22 unit is entitled to representation, as determined
23 under paragraph (1)(A). If a unit is entitled to
24 1 appointment on the Board, the unit shall sub-
25 mit at least 2 nominations for the appointment.

1 (B) FEEDERS.—The Secretary shall ap-
2 point representatives of the feeder sheep indus-
3 try to seats established under paragraph (1)(B)
4 from nominations submitted by qualified na-
5 tional organizations that represent the feeder
6 sheep industry. To be represented on the
7 Board, the industry shall provide at least 1.5
8 nominations for each appointment to the Board
9 for which the feeder sheep industry is entitled
10 to representation, as determined under para-
11 graph (1)(B).

12 (C) IMPORTERS.—The Secretary shall ap-
13 point importers to seats established under para-
14 graph (1)(C) from nominations submitted by
15 qualified organizations that represent import-
16 ers, as determined by the Secretary. To be rep-
17 resented on the Board, importers shall provide
18 at least 1.5 nominations for each appointment
19 to the Board for which importers are entitled to
20 representation, as determined under paragraph
21 (1)(C).

22 (c) METHOD FOR OBTAINING NOMINATIONS.—

23 (1) INITIALLY ESTABLISHED BOARD.—

24 (A) PRODUCER NOMINATIONS.—The Sec-
25 retary shall solicit nominations for each seat on

1 the initially established Board to which a unit
2 is entitled to representation from eligible orga-
3 nizations certified under paragraph (3). If no
4 such organization exists in the unit, the Sec-
5 retary shall solicit nominations for appoint-
6 ments in such manner as the Secretary deter-
7 mines appropriate.

8 (B) FEEDER AND IMPORTER NOMINA-
9 TIONS.—The Secretary shall solicit nominations
10 for each seat for which feeders or importers are
11 entitled to representation from organizations
12 that represent feeders and importers, respec-
13 tively. In determining whether an organization
14 is eligible to submit nominations under this
15 subparagraph, the Secretary shall determine
16 whether—

17 (i) the active membership of the orga-
18 nization includes a significant number of
19 feeders or importers in relation to the total
20 membership of the organization;

21 (ii) there is evidence of stability and
22 permanency of the organization; and

23 (iii) the organization has a primary
24 and overriding interest in representing the

1 feeder or importer segment of the sheep in-
2 dustry.

3 (2) SUBSEQUENT APPOINTMENT.—

4 (A) PRODUCER NOMINATIONS.—The solici-
5 tation of nominations for subsequent appoint-
6 ment to the Board from eligible organizations
7 certified under paragraph (3) shall be initiated
8 by the Secretary, with the Board securing the
9 nominations for the Secretary.

10 (B) FEEDER AND IMPORTER NOMINA-
11 TIONS.—The solicitation of feeder and importer
12 nominations for seats on the Board shall be
13 made by the Secretary in accordance with para-
14 graph (1)(B).

15 (3) CERTIFICATION OF ORGANIZATIONS.—

16 (A) IN GENERAL.—The eligibility of any
17 organization to represent producers, and to par-
18 ticipate in the making of nominations to rep-
19 resent producers under this section, shall be
20 certified by the Secretary. The Secretary shall
21 certify any organization that the Secretary de-
22 termines meets the eligibility criteria estab-
23 lished by the Secretary under this paragraph.
24 An eligibility determination of the Secretary
25 under this paragraph shall be final.

1 (B) BASIS FOR CERTIFICATION.—Certifi-
2 cation under this paragraph shall be based, in
3 addition to other available information, on a
4 factual report submitted by the organization,
5 that shall contain information considered rel-
6 evant and specified by the Secretary, includ-
7 ing—

8 (i) the geographic territory covered by
9 the active membership of the organization;

10 (ii) the nature and size of the active
11 membership of the organization, including
12 the proportion of the total number of ac-
13 tive producers represented by the organiza-
14 tion;

15 (iii) evidence of stability and perma-
16 nency of the organization;

17 (iv) sources from which the operating
18 funds of the organization are derived;

19 (v) the functions of the organization;
20 and

21 (vi) the ability and willingness of the
22 organization to further the aims and objec-
23 tives of this Act.

24 (C) PRIMARY CONSIDERATIONS.—A pri-
25 mary consideration in determining the eligibility

1 of an organization under this paragraph shall
2 be whether—

3 (i) the membership of the organiza-
4 tion consists primarily of producers who
5 own a substantial quantity of sheep; and

6 (ii) an interest of the organization is
7 in the production of sheep.

8 (d) ADMINISTRATION.—

9 (1) TERMS.—Each appointment to the Board
10 shall be for a term of 3 years, except that appoint-
11 ments to the initially established Board shall be pro-
12 portionately for 1-year, 2-year, and 3-year terms. No
13 person may serve more than 2 consecutive 3-year
14 terms, except that an elected officer of the Board
15 shall not be subject to this sentence while the officer
16 holds office.

17 (2) COMPENSATION.—A Board member shall
18 serve without compensation, but shall be reimbursed
19 for the reasonable expenses of the member incurred
20 in performing the duties of the Board.

21 (3) MEETINGS.—The order shall provide for at
22 least an annual meeting of the Board and such addi-
23 tional meetings of the Board as may be required.

1 (e) POWERS AND DUTIES OF THE BOARD.—The
2 order shall define the powers and duties of the Board and
3 shall include the power and duty—

4 (1) to elect officers of the Board, including a
5 Chairperson, Vice Chairperson, and Secretary;

6 (2) to administer the order in accordance with
7 the terms and provisions of the order;

8 (3) to recommend regulations to effectuate the
9 terms and provisions of the order;

10 (4) to elect members of the Board to serve on
11 the Executive Committee;

12 (5) to approve or reject budgets submitted by
13 the Executive Committee;

14 (6) on approval, to submit the budgets to the
15 Secretary for the approval or disapproval of the Sec-
16 retary;

17 (7) to contract with entities, if necessary, to
18 carry out plans or projects in accordance with this
19 Act;

20 (8) to conduct programs of promotion, research,
21 consumer information, education, industry informa-
22 tion, and producer information;

23 (9) to receive, investigate, and report to the
24 Secretary complaints of violations of the order;

1 (10) to recommend to the Secretary amend-
2 ments to the order;

3 (11) to provide the Secretary with prior notice
4 of meetings of the Board to permit the Secretary, or
5 a designated representative, to attend the meetings;

6 (12) to provide, not less than annually, a report
7 to producers, feeders, and importers accounting for
8 funds expended by the Board and describing pro-
9 grams carried out under this Act, and to make the
10 report available to the public on request;

11 (13) to establish 7 regions that, to the extent
12 practicable, contain geographically contiguous States
13 and approximately equal numbers of producers and
14 sheep production;

15 (14) to employ or retain necessary staff; and

16 (15) to invest funds in accordance with sub-
17 section (k).

18 (f) BUDGETS.—

19 (1) IN GENERAL.—The order shall provide that
20 the Board shall review budgets submitted by the Ex-
21 ecutive Committee, on a fiscal year basis, of antici-
22 pated expenses and disbursements by the Board, in-
23 cluding probable costs of administration and pro-
24 motion, research, consumer information, education,
25 industry information, and producer information

1 projects. On approval by the Board, the Board shall
2 submit the budget to the Secretary for the approval
3 of the Secretary.

4 (2) LIMITATION.—No expenditure of funds may
5 be made by the Board unless the expenditure is au-
6 thorized under a budget or budget amendment ap-
7 proved by the Secretary.

8 (g) EXECUTIVE COMMITTEE.—

9 (1) ESTABLISHMENT.—The order shall estab-
10 lish an Executive Committee to administer the terms
11 and provisions of the order, as provided in this sub-
12 section, under the direction of the Board and con-
13 sistent with the policies determined by the Board.

14 (2) MEMBERSHIP.—The Executive Committee
15 shall be composed of 14 members, of which—

16 (A) 11 members shall be elected by the
17 Board on an annual basis, of which—

18 (i) 7 members shall represent produc-
19 ers, with 1 member representing each of
20 the regions established in the order;

21 (ii) 1 member shall represent feeders;
22 and

23 (iii) 3 members shall represent im-
24 porters; and

1 (B) 3 members shall be the Chairperson,
2 Vice Chairperson, and Secretary of the Board.

3 (3) POWERS AND DUTIES.—

4 (A) PLANS OR PROJECTS.—The Executive
5 Committee shall develop plans or projects of
6 promotion, research, consumer information,
7 education, industry information, and producer
8 information, which shall be paid for with as-
9 sessments collected by the Board. The plans or
10 projects shall not become effective until the
11 plans or projects are approved by the Secretary.

12 (B) BUDGETS.—The Executive Committee
13 shall be responsible for developing and submit-
14 ting to the Board, for the approval of the
15 Board, budgets, on a fiscal year basis, of the
16 anticipated expenses and disbursements of the
17 Board, including probable costs of promotion,
18 research, consumer information, education, in-
19 dustry information, and producer information
20 projects. The Board shall approve or disapprove
21 a budget submitted by the Executive Commit-
22 tee, and, if approved, shall submit the budget to
23 the Secretary for the approval of the Secretary.

24 (4) TERMS.—A term of appointment to the Ex-
25 ecutive Committee shall be for 1 year.

1 (5) CHAIRPERSON.—The Chairperson of the
2 Board shall serve as Chairperson of the Executive
3 Committee.

4 (6) QUORUM.—A quorum of the Executive
5 Committee shall consist of 8 members.

6 (h) EXPENSES, CONTRACTS, AND AGREEMENTS.—

7 (1) EXPENSES.—The order shall provide that
8 the Board shall be responsible for all expenses of the
9 Board and the Executive Committee.

10 (2) CONTRACTS AND AGREEMENTS.—A con-
11 tract or agreement entered into by the Board under
12 subsection (e)(7) shall provide that—

13 (A) the contracting party shall develop and
14 submit to the Board a plan or project, together
15 with a budget or budgets that provides esti-
16 mated costs to be incurred for the plan or
17 project;

18 (B) the plan or project, and the contract
19 or agreement, shall not become effective until
20 the plan or project has been approved by the
21 Secretary; and

22 (C) the contracting party shall—

23 (i) keep accurate records of all of the
24 transactions of the party;

1 (ii) account for funds received and ex-
2 pended, including staff time, salaries, and
3 expenses expended on behalf of Board ac-
4 tivities;

5 (iii) make periodic reports to the
6 Board of activities conducted; and

7 (iv) make such other reports as the
8 Board or the Secretary may require.

9 (i) ASSESSMENTS.—

10 (1) SHEEP PURCHASES.—

11 (A) IN GENERAL.—The order shall provide
12 that each person making payment to a producer
13 or feeder for sheep purchased from the pro-
14 ducer or feeder shall, in the manner prescribed
15 by the order, collect an assessment from the
16 producer or feeder on each sheep sold by the
17 producer or feeder.

18 (B) PROCESSING.—Any person purchasing
19 sheep for processing shall collect the assessment
20 from the seller and remit the assessment to the
21 Board in the manner prescribed by the order.

22 (C) RATE.—

23 (i) IN GENERAL.—Except as provided
24 in clause (ii), the rate of assessment under

1 this paragraph shall be 1 cent per pound
2 of live sheep sold.

3 (ii) EXCEPTION.—The rate of assess-
4 ment under this paragraph may be raised
5 or lowered not more than $\frac{15}{100}$ of a cent
6 per pound in any 1 year, as recommended
7 by the Executive Committee and approved
8 by the Board and the Secretary, except
9 that the rate of assessment under this
10 paragraph shall not exceed 2.5 cents per
11 pound of live sheep sold.

12 (2) WOOL PURCHASES.—

13 (A) IN GENERAL.—The order shall provide
14 that each person making payment to a pro-
15 ducer, feeder, or handler of wool for wool pur-
16 chased from the producer, feeder, or handler
17 shall, in the manner prescribed by the order,
18 collect an assessment on each pound of greasy
19 wool sold.

20 (B) PROCESSING.—Any person purchasing
21 greasy wool for processing shall collect the as-
22 sessment and remit the assessment to the
23 Board in the manner prescribed by the order.

24 (C) RATE.—

1 (i) IN GENERAL.—Except as provided
2 in clause (ii), the rate of assessment under
3 this paragraph shall be 2 cents per pound
4 of greasy wool.

5 (ii) EXCEPTION.—The rate of assess-
6 ment under this paragraph may be raised
7 or lowered not more than $\frac{2}{10}$ of a cent per
8 pound in any 1 year, as recommended by
9 the Executive Committee and approved by
10 the Board and the Secretary, except that
11 the rate of assessment under this para-
12 graph shall not exceed 4 cents per pound
13 of greasy wool.

14 (3) DIRECT PROCESSING.—The order shall pro-
15 vide that any person processing or causing to be
16 processed sheep or sheep products of that person's
17 own production and marketing shall—

18 (A) pay an assessment on the sheep or
19 sheep products at the time of sale at a rate
20 equivalent to the rate provided for in paragraph
21 (1) or (2), as appropriate; and

22 (B) remit the assessment to the Board in
23 the manner prescribed by the order.

1 (4) EXPORTS.—The order shall provide that
2 any person exporting live sheep or greasy wool
3 shall—

4 (A) pay the assessment on the sheep or
5 greasy wool at the time of export at a rate
6 equivalent to the rate provided for in paragraph
7 (1) or (2), as appropriate; and

8 (B) remit the assessment to the Board in
9 the manner prescribed by the order.

10 (5) IMPORTS.—

11 (A) IN GENERAL.—The order shall provide
12 that any person importing sheep or sheep prod-
13 uct, and any person importing wool or products
14 containing wool, into the United States shall
15 pay an assessment to the Board in the manner
16 prescribed by the order, except that this para-
17 graph shall not apply to raw wool that is im-
18 ported into the United States.

19 (B) COLLECTION.—The Customs Service
20 shall collect the assessment required under this
21 paragraph and remit the assessment to the Sec-
22 retary for disbursement to the Board.

23 (C) RATE FOR SHEEP AND SHEEP PROD-
24 UCTS.—

1 (i) IN GENERAL.—Except as provided
2 in subparagraph (B), the rate of assess-
3 ment under this paragraph for sheep and
4 sheep products shall be—

5 (I) in the case of a live sheep, 1
6 cent per pound; and

7 (II) in the case of a sheep prod-
8 uct, the equivalent of 1 cent per
9 pound of live sheep, as determined by
10 the Secretary in consultation with the
11 domestic sheep industry.

12 (ii) EXCEPTION.—The rate of assess-
13 ment under this subparagraph may be
14 raised or lowered not more than $15/100$ cent
15 per pound in any 1 year, as recommended
16 by the Executive Committee and approved
17 by the Board and the Secretary, except
18 that the rate of assessment under this sub-
19 paragraph shall not exceed 2.5 cents per
20 pound.

21 (D) RATE FOR WOOL AND WOOL PROD-
22 UCTS.—

23 (i) IN GENERAL.—Except as provided
24 in clause (ii), the rate of assessment under
25 this paragraph for wool and products con-

1 taining wool, shall be 2 cents per pound of
2 degreased wool or the equivalent of
3 degreased wool.

4 (ii) EXCEPTION.—The rate of assess-
5 ment under this subparagraph may be
6 raised or lowered not more than $\frac{2}{10}$ cent
7 per pound in any 1 year, as recommended
8 by the Executive Committee and approved
9 by the Board and the Secretary, except
10 that the rate of assessment under this sub-
11 paragraph shall not exceed 4 cents per
12 pound of degreased wool or the equivalent
13 of degreased wool.

14 (6) QUALIFIED STATE SHEEP BOARDS.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the order shall provide that
17 20 percent of the total assessments collected by
18 the Board on the marketing of domestic sheep
19 and domestic sheep products in any 1 year from
20 a State shall be returned to the qualified State
21 sheep board of the State.

22 (B) EXCEPTION.—No qualified State sheep
23 board shall receive less than \$2,500 under sub-
24 paragraph (A) in any year.

1 (7) DE MINIMIS IMPORTS.—The Secretary may
2 issue regulations that—

3 (A) exclude certain imported materials or
4 products that contain de minimis content levels
5 of sheep or sheep products; and

6 (B) waive the assessment due on the mate-
7 rials or products.

8 (8) USE OF ASSESSMENTS.—

9 (A) IN GENERAL.—The order shall provide
10 that assessments received by the Board shall be
11 used by the Board for the payment of expenses
12 incurred in administering the order, with au-
13 thorization for a reasonable reserve.

14 (B) REIMBURSEMENT OF SECRETARY.—
15 The Secretary shall be reimbursed for costs in-
16 curred in implementing and administering the
17 order.

18 (j) BOOKS AND RECORDS OF BOARD.—

19 (1) IN GENERAL.—The order shall require the
20 Board to—

21 (A) maintain such books and records as
22 the Secretary may prescribe, which shall be
23 available to the Secretary for inspection and
24 audit;

1 (B) prepare and submit to the Secretary,
2 from time to time, such reports as the Sec-
3 retary may prescribe; and

4 (C) account for the receipt and disburse-
5 ment of all funds entrusted to the Board.

6 (2) AUDIT.—The Board shall cause books and
7 records of the Board related to the order to be au-
8 dited by an independent auditor at the end of each
9 fiscal year. The Board shall submit a report of the
10 audit to the Secretary.

11 (k) INVESTMENT OF FUNDS.—

12 (1) IN GENERAL.—The order shall provide that
13 the Board may invest, pending disbursement, funds
14 the Board receives under the order, only in—

15 (A) obligations of the United States or any
16 agency of the United States;

17 (B) general obligations of any State or any
18 political subdivision of a State;

19 (C) any interest-bearing account or certifi-
20 cate of deposit of a bank that is a member of
21 the Federal Reserve System; or

22 (D) obligations fully guaranteed as to prin-
23 cipal and interest by the United States.

1 (2) USE OF INCOME.—Income from any invest-
2 ment under paragraph (1) may be used for any pur-
3 pose for which the invested funds may be used.

4 (l) PROHIBITION ON USE OF FUNDS.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the order shall prohibit any funds col-
7 lected by the Board under the order from being used
8 in any manner for the purpose of influencing legisla-
9 tion or government action or policy.

10 (2) EXCEPTIONS.—Paragraph (1) shall not
11 apply to—

12 (A) the development and recommendation
13 to the Secretary of amendments to the order; or

14 (B) the communication to appropriate gov-
15 ernment officials, in response to a request made
16 by the officials, of information relating to the
17 conduct, implementation, or results of pro-
18 motion, research, consumer information, edu-
19 cation, industry information, or producer infor-
20 mation activities under the order.

21 (3) FALSE OR MISLEADING CLAIMS.—A plan or
22 project conducted under this Act shall not make
23 false or misleading claims on behalf of sheep or
24 sheep products or against a competing product.

25 (m) BOOKS AND RECORDS.—

1 (1) IN GENERAL.—The order shall require that
2 each person making payment to a producer, feeder,
3 or handler for sheep or sheep products, each im-
4 porter and exporter of sheep or sheep products, and
5 each person marketing sheep products of the per-
6 son's own production to maintain, and make avail-
7 able for inspection, such books and records as may
8 be required by the order and file reports at the time,
9 in the manner, and having the content prescribed by
10 the order.

11 (2) USE OF INFORMATION.—

12 (A) IN GENERAL.—Information from the
13 records or reports shall be made available to the
14 Secretary for the administration or enforcement
15 of this Act, or any order or regulation issued
16 under this Act.

17 (B) OTHER INFORMATION.—The Secretary
18 shall authorize the use under this Act of infor-
19 mation regarding persons paying producers,
20 feeders, importers, handlers, or processors that
21 is accumulated under a law or regulation other
22 than this Act or a regulation issued under this
23 Act.

24 (3) CONFIDENTIALITY.—

1 (A) IN GENERAL.—Except as otherwise
2 provided in this Act, all information obtained
3 under paragraph (1) or (2) shall be kept con-
4 fidential by all officers and employees of the
5 Department and of the Board.

6 (B) DISCLOSURE.—Information referred to
7 in subparagraph (A) may be disclosed only if—

8 (i) the Secretary considers the infor-
9 mation relevant;

10 (ii) the information is revealed in a
11 judicial proceeding or administrative hear-
12 ing brought at the direction or on the re-
13 quest of the Secretary or to which the Sec-
14 retary or any officer of the Department is
15 a party; and

16 (iii) the information relates to this
17 Act.

18 (C) GENERAL STATEMENTS.—Nothing in
19 this paragraph prohibits—

20 (i) the issuance of general statements,
21 based on the reports, of the number of per-
22 sons subject to an order or statistical data
23 collected from the persons, which state-
24 ments do not identify the information fur-
25 nished by any person; or

1 (ii) the publication, by direction of the
2 Secretary, of the name of any person vio-
3 lating any order and a statement of the
4 particular provisions of the order violated
5 by the person.

6 (D) ADMINISTRATION.—No information
7 obtained under this Act may be made available
8 to any agency or officer of the Federal Govern-
9 ment for any purpose other than the implemen-
10 tation of this Act or any investigatory or en-
11 forcement action necessary for the implementa-
12 tion of this Act.

13 (E) PENALTY.—Any person who willfully
14 violates this paragraph, on conviction, shall be
15 subject to a fine of not more than \$1,000 or to
16 imprisonment for not more than 1 year, or
17 both, and if the person is an officer or employee
18 of the Board or the Department, shall be re-
19 moved from office.

20 (n) OTHER TERMS AND CONDITIONS.—The order
21 shall provide such terms and conditions, not inconsistent
22 with this section, as are necessary to carry out the order,
23 including provisions for the assessment of a penalty for
24 the late payment of an assessment due under the order.

1 **SEC. 6. REFERENDA.**

2 (a) INITIAL REFERENDUM.—

3 (1) IN GENERAL.—Following the issuance of an
4 order under section 4, the Secretary shall conduct a
5 referendum among producers, feeders, and importers
6 who, during a representative period as determined
7 by the Secretary, have been engaged in the produc-
8 tion, feeding, or importation of sheep or sheep prod-
9 ucts for the purpose of ascertaining whether the
10 order shall go into effect.

11 (2) APPROVAL OF ORDER.—The order shall be-
12 come effective only if the Secretary determines that
13 the order has been approved by not less than a ma-
14 jority of the producers, feeders, and importers voting
15 in the referendum or at least $\frac{2}{3}$ of the production
16 represented by persons voting in the referendum.

17 (b) ADDITIONAL REFERENDA.—

18 (1) IN GENERAL.—After the initial referendum,
19 on the request of a representative group comprising
20 10 percent or more of the producers, feeders, and
21 importers who, during a representative period as de-
22 termined by the Secretary, have been engaged in the
23 production, feeding, importation, or processing of
24 sheep or sheep products, the Secretary shall conduct
25 a referendum of producers, feeders, and importers to
26 determine whether the producers, feeders, and im-

1 porters favor the termination or suspension of the
2 order.

3 (2) SUSPENSION OR TERMINATION.—If the Sec-
4 retary determines that suspension or termination of
5 the order is favored by a majority of the producers,
6 feeders, and importers voting in the referendum or
7 at least $\frac{2}{3}$ of the production represented by the per-
8 sons voting in the referendum, the Secretary shall
9 suspend or terminate—

10 (A) collection of assessments under the
11 order not later than 180 days after the deter-
12 mination; and

13 (B) the order in an orderly manner as soon
14 as practicable after the determination.

15 (c) PROCEDURES.—

16 (1) REIMBURSEMENT—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), the Board shall reimburse
19 the Secretary for any expenses incurred by the
20 Secretary in connection with the conduct of any
21 referendum under this section.

22 (B) FEDERAL EMPLOYEE SALARIES.—The
23 Board shall not be required to reimburse the
24 Secretary for the salaries of Federal employees
25 under subparagraph (A) if the Secretary deter-

1 mines that the reimbursement would be overly
2 burdensome and costly.

3 (2) DATE.—Each referendum under this sec-
4 tion shall be conducted on a date established by the
5 Secretary, under a procedure by which producers,
6 feeders, and importers intending to vote in the ref-
7 erendum shall certify that the producers, feeders,
8 and importers were engaged in the production, feed-
9 ing, or importation of sheep or sheep products dur-
10 ing the representative period and, on the same day,
11 shall be provided an opportunity to vote in the ref-
12 erendum.

13 (3) PLACE.—Referenda under this section shall
14 be conducted at locations determined by the Sec-
15 retary. Absentee mail ballots shall be furnished by
16 the Secretary on request made in person, by mail, or
17 by telephone.

18 (4) ALLOCATION OF PRODUCTION.—The Sec-
19 retary shall determine a method of allocating, by a
20 pro rata percentage of annual projected or actual as-
21 sessments from importers, the volume of production
22 represented by importers in referenda conducted
23 pursuant to this section.

24 **SEC. 7. PETITION AND REVIEW.**

25 (a) PETITION.—

1 (1) IN GENERAL.—A person subject to an order
2 issued under this Act may file with the Secretary a
3 petition—

4 (A) stating that the order, any provision of
5 the order, or any obligation imposed in connec-
6 tion with the order is not established in accord-
7 ance with law; and

8 (B) requesting a modification of the order
9 or an exemption from the order.

10 (2) HEARINGS.—The petitioner shall be given
11 an opportunity for a hearing on the petition, in ac-
12 cordance with regulations issued by the Secretary.

13 (3) RULING.—After the hearing, the Secretary
14 shall make a ruling on the petition. The ruling shall
15 be final if the ruling is in accordance with law.

16 (b) REVIEW.—

17 (1) COMMENCEMENT OF ACTION.—The district
18 court of the United States for any district in which
19 a person who is a petitioner under subsection (a) re-
20 sides or carries on business shall have jurisdiction to
21 review the ruling on the petition of the person, if a
22 complaint for that purpose is filed not later than 20
23 days after the date of the entry of the ruling by the
24 Secretary under subsection (a)(3).

1 (2) PROCESS.—Service of process in a proceed-
2 ing may be conducted on the Secretary by delivering
3 a copy of the complaint to the Secretary, under such
4 rules or regulations as are considered necessary by
5 the Secretary to facilitate the service of process.

6 (3) REMANDS.—If the court determines that
7 the ruling is not in accordance with law, the court
8 shall remand the matter to the Secretary with direc-
9 tions—

10 (A) to make such ruling as the court shall
11 determine to be in accordance with law; or

12 (B) to take such further action as, in the
13 opinion of the court, the law requires.

14 **SEC. 8. ENFORCEMENT.**

15 (a) JURISDICTION.—Each district court of the United
16 States shall have jurisdiction specifically to enforce, and
17 to prevent and restrain a person from violating, an order
18 or regulation issued under this Act.

19 (b) REFERRAL TO ATTORNEY GENERAL.—A civil ac-
20 tion authorized to be brought under this section shall be
21 referred to the Attorney General for appropriate action,
22 except that the Secretary is not required to refer to the
23 Attorney General a violation of this Act, if the Secretary
24 believes that the administration and enforcement of this
25 Act would be adequately served by providing a suitable

1 written notice or warning to the person who committed
2 the violation or by an administrative action under section
3 7.

4 (c) CIVIL PENALTIES AND ORDERS.—

5 (1) CIVIL PENALTIES.—A person who willfully
6 violates an order or regulation issued by the Sec-
7 retary under this Act may be assessed by the Sec-
8 retary—

9 (A) a civil penalty of not more than \$1,000
10 for each such violation; and

11 (B) in the case of a willful failure to pay,
12 collect, or remit an assessment as required by
13 the order, an additional penalty equal to the
14 amount of the assessment.

15 (2) SEPARATE OFFENSE.—Each violation shall
16 be a separate offense.

17 (3) CEASE-AND-DESIST ORDERS.—In addition
18 to, or in lieu of, the civil penalty, the Secretary may
19 issue an order requiring the person to cease and de-
20 sist from violating the order or regulation.

21 (4) NOTICE AND HEARING.—No order assessing
22 a penalty or cease-and-desist order may be issued by
23 the Secretary under this subsection unless the Sec-
24 retary provides notice and an opportunity for a hear-
25 ing on the record with respect to the violation.

1 (5) FINALITY.—An order assessing a penalty or
2 a cease-and-desist order issued under this subsection
3 by the Secretary shall be final and conclusive unless
4 the person against whom the order is issued files an
5 appeal from the order with the United States court
6 of appeals, as provided in subsection (d), not later
7 than 30 days after the person receives notice of the
8 order.

9 (d) REVIEW BY COURT OF APPEALS.—

10 (1) IN GENERAL.—A person against whom an
11 order is issued under subsection (c) may obtain re-
12 view of the order by—

13 (A) filing, not later than 30 days after the
14 date of the order, a notice of appeal in—

15 (i) the United States court of appeals
16 for the circuit in which the person resides
17 or carries on business; or

18 (ii) the United States Court of Ap-
19 peals for the District of Columbia Circuit;
20 and

21 (B) simultaneously sending a copy of the
22 notice of appeal by certified mail to the Sec-
23 retary.

24 (2) RECORD.—The Secretary shall file promptly
25 in the court a certified copy of the record on which

1 the Secretary has determined that the person has
2 committed a violation.

3 (3) STANDARD OF REVIEW.—A finding of the
4 Secretary under this section shall be set aside only
5 if the finding is found to be unsupported by substan-
6 tial evidence.

7 (e) FAILURE TO OBEY ORDERS.—A person who fails
8 to obey a valid cease-and-desist order issued by the Sec-
9 retary under this section, after an opportunity for a hear-
10 ing, shall be subject to a civil penalty assessed by the Sec-
11 retary of not more than \$500 for each offense. Each day
12 during which the failure continues shall be considered to
13 be a separate violation of the order.

14 (f) FAILURE TO PAY PENALTIES.—If a person fails
15 to pay a valid civil penalty imposed under this section by
16 the Secretary, the Secretary shall refer the matter to the
17 Attorney General for recovery of the amount assessed in
18 the district court of the United States for any district in
19 which the person resides or carries on business. In the
20 action, the validity and appropriateness of the order im-
21 posing the civil penalty shall not be subject to review.

22 (g) ADDITIONAL REMEDIES.—The remedies provided
23 in this section shall be in addition to, and not exclusive
24 of, other remedies that may be available.

1 **SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.**

2 (a) INVESTIGATIONS.—The Secretary may make such
3 investigations as the Secretary considers necessary—

4 (1) for the effective administration of this Act;

5 or

6 (2) to determine whether any person subject to
7 this Act has engaged, or is about to engage, in any
8 action that constitutes or will constitute a violation
9 of this Act, or of any order or regulation issued
10 under this Act.

11 (b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For
12 the purpose of any investigation under subsection (a), the
13 Secretary may administer oaths and affirmations, sub-
14 poena witnesses, compel the attendance of witnesses, take
15 evidence, and require the production of any records that
16 are relevant to the inquiry. The attendance of witnesses
17 and the production of any such records may be required
18 from any place in the United States.

19 (c) AID OF COURTS.—In the case of contumacy by,
20 or refusal to obey a subpoena issued to, any person, the
21 Secretary may invoke the aid of any court of the United
22 States within the jurisdiction of which the investigation
23 or proceeding is carried on, or where the person resides
24 or carries on business, in order to require the attendance
25 and testimony of the person or the production of records.
26 The court may issue an order requiring the person to ap-

1 pear before the Secretary to produce records or to give
2 testimony regarding the matter under investigation.

3 (d) CONTEMPT.—Any failure to obey the order of the
4 court may be punished by the court as a contempt of the
5 court.

6 (e) PROCESS.—Process in any case under this section
7 may be served in the judicial district in which the person
8 resides or carries on business or wherever the person may
9 be found.

10 **SEC. 10. ADMINISTRATIVE PROVISIONS.**

11 (a) CONSTRUCTION.—Nothing in this Act preempts
12 or supersedes any other program relating to sheep pro-
13 motion, research, or information organized and operated
14 under the laws of the United States or any State.

15 (b) AMENDMENTS TO ORDERS.—The provisions of
16 this Act applicable to an order shall be applicable to
17 amendments to the order, except that the Secretary is not
18 required to conduct a referendum on a proposed amend-
19 ment to an order.

20 **SEC. 11. REGULATIONS.**

21 The Secretary may issue such regulations as are nec-
22 essary to carry out this Act.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated for each fiscal year such sums as are necessary
4 to carry out this Act.

5 (b) ADMINISTRATIVE EXPENSES.—Funds appro-
6 priated under subsection (a) shall not be available for pay-
7 ment of the expenses or expenditures of the Board in ad-
8 ministering any provision of any order issued under this
9 Act.

Passed the Senate October 4 (legislative day, Sep-
tember 12), 1994.

Attest:

Secretary.

S 2500 ES——2

S 2500 ES——3

S 2500 ES——4

S 2500 ES——5